

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Anthony Marciano, individually, and on behalf of all other  
individuals similarly situated,

**NOTICE OF REMOVAL**

Plaintiff,

Case No.

-against-

BILL DE BLASIO, MAYOR OF THE CITY OF NEW  
YORK, in his official capacity; DAVE A. CHOCKSHI,  
COMMISSIONER OF HEALTH AND MENTAL  
HYGIENE, in his official capacity; DERMOT SHEA,  
POLICE COMMISSIONER, in his official capacity; THE  
NEW YORK CITY BOARD OF HEALTH; and THE  
CITY OF NEW YORK,

Defendants.

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**TO: THE UNITED STATES DISTRICT COURT,  
SOUTHERN DISTRICT OF NEW YORK**

Defendants, Bill De Blasio, Mayor of the City of New York, in his official capacity; Dave a. Chokshi, Commissioner of Health and Mental Hygiene, in his official capacity; Dermot Shea, Police Commissioner, in his official capacity; The New York City Board of Health; and the City of New York (collectively "Defendants"), by and through their attorney, Georgia M. Pestana, Corporation Counsel of the City of New York, respectfully move this Court as follows:

1. On or about December 8, 2021, Defendants were served with the Verified Petition/Complaint and proposed Order to Show Cause, as well as accompanying papers, in a New York State Supreme Court action, alleging Federal and State claims, and setting forth the claims for relief upon which the action was based.
2. A copy of Plaintiff's Verified Petition/Complaint, and its accompanying exhibits, are annexed hereto as Exhibit "A."

3. A copy of Plaintiff's Memorandum of law is annexed hereto as Exhibit "B."
4. A copy of Plaintiff's Order to Show Cause, signed by the Hon. Frank P. Nervo and entered on December 7, 2021, is annexed hereto as Exhibit "C."

5. A copy of the Order of the Hon. Frank P. Nervo, entered December 8, 2021, is annexed hereto as Exhibit "D."

6. Accordingly, upon the filing of the Verified Petition/Complaint, the above-captioned action is a civil action of which the District Court has original jurisdiction pursuant to 28 U.S.C. § 1331, in that it alleges claims which arise under the laws of the United States. This action is therefore removable to the District Court without regard to the citizenship or residence of the parties, pursuant to 28 U.S.C. §§ 1441 and 1443.

7. This Notice of Removal is timely because it is being filed within thirty (30) days of the filing of the Verified Petition/Complaint. See 28 U.S.C. § 1446 (b).

8. All Defendants consent to the removal of this action to federal court.

9. Defendants will promptly file a copy of this Notice of Removal with the Clerk of the State Court in which the action is pending.

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**WHEREFORE**, Defendants respectfully request that the above-captioned action be removed from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York.

Dated:           New York, New York  
December 15, 2021

GEORGIA M. PESTANA  
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City of New York  
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By:           */s/Eugenia Fowlkes*  
Eugenia Fowlkes  
Assistant Corporation Counsel

TO:    Patricia Finn, Esq. (via first class mail and e-mail)  
Patricia Finn, Attorney P.C.  
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# **EXHIBIT A**

Docket No.
UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK
Anthony Marciano, individually, and on behalf of all other individuals similarly situated,
Plaintiff\Petitioners,
-against-
BILL DE BLASIO, MAYOR OF THE CITY OF NEW YORK, in his official capacity; DAVE A. CHOCKSHI, COMMISSIONER OF HEALTH AND MENTAL HYGIENE, in his official capacity; DERMOT SHEA, POLICE COMMISSIONER, in his official capacity; THE NEW YORK CITY BOARD OF HEALTH; and THE CITY OF NEW YORK.
Defendants\Respondents.
<b>NOTICE OF REMOVAL</b>
<p><b><i>GEORGIA M. PESTANA</i></b>  <i>Corporation Counsel of the City of New York</i>  <i>Attorney for Defendants</i>  <i>100 Church Street</i>  <i>New York, N.Y. 10007</i></p> <p><i>Of Counsel: Eugenia Fowlkes</i>  <i>Tel: (212) 356-2451</i>  <i>Matter No.: 2021-043627</i></p>

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 2021*

*..... Esq.*

*Attorney for.....*